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 Bank of America N.A.

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

BANK OF AMERICA N.A., a Delaware  
 corporation,

Plaintiff,

v.

MARK J. IMMEL, an individual, and  
 SANDRA M. PENNER, an individual

Defendants.

) Case No. 10-CV-02483-CRB

) **NOTICE OF SETTLEMENT;  
 ) STIPULATION AND ~~PROPOSED~~  
 ) ORDER MODIFYING ORDER TO SHOW  
 ) CAUSE RE PRELIMINARY  
 ) INJUNCTION DEADLINES AND  
 ) VACATING SCHEDULE**

) Action Filed: June 4, 2010

Plaintiff Bank of America N.A. (“BofA”) and defendants Mark J. Immel and Sandra M. Penner (collectively, “Defendants”) hereby inform the Court that the Parties (*i.e.*, BofA and Defendants, collectively) have reached a settlement in principle of this action, subject to signature by all Parties, and Defendants’ current employer, to a written settlement agreement. The Parties currently are preparing such written settlement agreement.

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1           **ACCORDINGLY, THE PARTIES HEREBY STIPULATE AND AGREE**, and  
2 respectfully request, that:

3           1.       All dates currently set in this case (including but not limited to the July 9, 2010  
4 deadline for Defendants to respond to the complaint, the July 23, 2010 deadline to complete limited  
5 discovery related to the preliminary injunction, and the briefing schedule for the Order to Show  
6 Cause re Preliminary Injunction) be vacated;

7           2.       All other terms of the Court's June 11, 2010 Temporary Restraining Order & Order  
8 to Show Cause re Preliminary Injunction ("June 11, 2010 TRO") remain in effect pending the  
9 earlier of the dismissal of this action (unless otherwise agreed by the Parties) or – in the event the  
10 settlement is not finalized – the hearing on the Order to Show Cause re Preliminary Injunction or  
11 on any motion to dissolve or modify the June 11, 2010 TRO that Defendants may file;

12           3.       The August 6, 2010 hearing on the Order to Show Cause re Preliminary Injunction  
13 be reset as a Status Conference. At that time, if the settlement has not been finalized and the case  
14 has not been dismissed, the parties can update the Court as to the status of the settlement  
15 documentation or otherwise address any relevant issues, including scheduling.

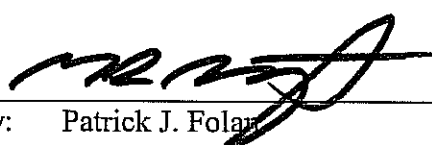
16 Date:   July 8, 2010

TATRO TEKOSKY SADWICK LLP

17                               /s/ René P. Tatro  
18 By:   René P. Tatro  
19                               Attorney for Plaintiff, Bank of America N.A.

20 Date:   July 8, 2010

ST. JOHN, WALLACE, BRENNAN & FOLAN LLP

21                                 
22 By:   Patrick J. Folan  
23                               Michael R. Minguet  
24                               Attorney for Defendants  
25                               Mark J. Immel and Sandra M. Penner  
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27  
28

**[PROPOSED] ORDER**  
**MODIFYING ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION**  
**DEADLINES AND VACATING SCHEDULE**

1. All dates currently set in this case (including but not limited to the July 9, 2010 deadline for Defendants to respond to the complaint, the July 23, 2010 deadline to complete limited discovery related to the preliminary injunction, and the briefing schedule for the Order to Show Cause re Preliminary Injunction) are hereby vacated;
2. All other terms of the Court's June 11, 2010 Temporary Restraining Order & Order to Show Cause re Preliminary Injunction ("June 11, 2010 TRO") shall remain in effect pending the earlier of the dismissal of this action (unless otherwise agreed by the Parties) or – in the event the settlement is not finalized – the hearing on the Order to Show Cause re Preliminary Injunction or on any motion to dissolve or modify the June 11, 2010 TRO that Defendants may file; and
3. If this case has not been dismissed by August 6, 2010, a Status Conference shall be held on August 6, 2010 at 10:00 a.m. in the Courtroom of the Honorable Charles R. Breyer, located at 450 Golden Gate Ave., 19<sup>th</sup> Floor, San Francisco, CA 94102.

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Dated: July 9, 2010

